

**BEFORE THE  
PHYSICIAN ASSISTANT BOARD  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation    )  
Against:                                )**

**Joseph Essex Rojo, P.A.                )  
Physician Assistant                    )  
Certificate No. PA 15905               )  
Respondent                                )**

**Case No. 950-2016-001035**

**DECISION**

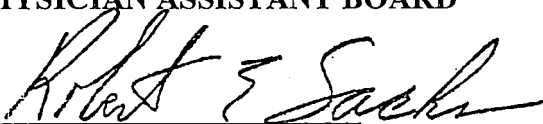
**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on September 14, 2018.**

**IT IS SO ORDERED August 17, 2018.**

**PHYSICIAN ASSISTANT BOARD**

**By:**



**Robert E. Sachs, P.A., President**

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
**PHYSICIAN ASSISTANT BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 950-2016-001035

12 **Joseph Essex Rojo, P.A.**  
13 **1054 Camino Del Cerritos**  
**San Dimas, California 91773**

OAH No. Not yet assigned

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Physician Assistant License No. PA 15905,**  
15  
16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Maureen L. Forsyth (Complainant) is the Executive Officer of the Physician Assistant  
22 Board (Board). She brought this action solely in her official capacity and is represented in this  
23 matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran, Deputy  
24 Attorney General.

25 2. Respondent JOSEPH ESSEX ROJO, P.A. (Respondent) is represented in this  
26 proceeding by attorney Jeffrey Morris, Esq., whose address is: 11845 W. Olympic Blvd., Suite  
27 1000, Los Angeles, CA 90064.

28 ///

3. On or about July 10, 2001, the Board issued Physician Assistant License No. 15905 to JOSEPH ESSEX ROJO, P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought in Accusation No. 950-2016-001035, and will expire on June 30, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 950-2016-001035 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 16, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 950-2016-001035 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 950-2016-001035. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 950-2016-001035 and that he has thereby subjected his license to disciplinary action.

1           10. Respondent agrees that his Physician Assistant License is subject to discipline and he  
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3                                   CIRCUMSTANCES IN MITIGATION

4           11. Respondent JOSEPH ESSEX ROJO, P.A. has never been the subject of any  
5 disciplinary action. He is cooperative.

6                                   RESERVATION

7           12. The admissions made by Respondent herein are only for the purposes of this  
8 proceeding, or any other proceedings in which the Physician Assistant Board or other  
9 professional licensing agency is involved, and shall not be admissible in any other criminal or  
10 civil proceeding.

11                                  CONTINGENCY

12           13. This stipulation shall be subject to approval by the Physician Assistant Board.  
13 Respondent understands and agrees that counsel for Complainant and the staff of the Physician  
14 Assistant Board may communicate directly with the Board regarding this stipulation and  
15 settlement, without notice to or participation by Respondent or her counsel. By signing the  
16 stipulation, Respondent understands and agrees that he may not withdraw her agreement or seek  
17 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
18 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
19 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
20 action between the parties, and the Board shall not be disqualified from further action by having  
21 considered this matter.

22           14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
24 signatures thereto, shall have the same force and effect as the originals.

25           15. In consideration of the foregoing admissions and stipulations, the parties agree that  
26 the Board may, without further notice or formal proceeding, issue and enter the following  
27 Disciplinary Order:

28           ///

**DISCIPLINARY ORDER**

1. IT IS HEREBY ORDERED that Physician Assistant License No. 15905 issued to Respondent JOSEPH ESSEX ROJO, P.A. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

2. CONTROLLED DRUGS-MAINTAIN RECORD Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's record or handed to a patient by the respondent during probation showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, 4) the indications and diagnosis for which the controlled substance was furnished, and 5) the name of supervising physician prescriber.

Respondent shall keep these records at the worksite in a separate file or ledger, in chronological order, and shall make them available for immediate inspection and copying by the Board or its designee, on the premises at all times during business hours, upon request and without charge.

3. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. The course shall be Category I certified, limited to classroom, conference, or seminar settings. Respondent shall successfully complete the course within the first 6 months of probation.

Respondent shall pay the cost of the course.

Respondent shall submit a certification of successful completion to the Board or its designee within 15 days after completing the course.

4. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the program may deem pertinent. Respondent shall participate in and

1 successfully complete the classroom component of the course not later than six (6) months after  
2 respondent's initial enrollment. Respondent shall successfully complete any other component of  
3 the course within one (1) year of enrollment. The prescribing practices course shall be in addition  
4 to the Continuing Medical Education (CME) requirements for renewal of licensure.

5 Respondent shall pay the cost of the course. The program shall determine whether  
6 respondent successfully completes the course.

7 Respondent shall submit a certification of successful completion to the Board or its  
8 designee not later than 15 calendar days after successfully completing the course, or not later than  
9 15 calendar days after the effective date of the decision, whichever is later.

10 5. MAINTENANCE OF PATIENT MEDICAL RECORDS

11 Respondent shall keep written medical records for each patient contact (including all visits  
12 and phone calls) at the worksite and shall make them available for immediate inspection by the  
13 Board or its designee on the premises at all times during business hours.

14 STANDARD CONDITIONS

15 6. APPROVAL OF SUPERVISING PHYSICIAN Within 30 days of the effective date  
16 of this decision, respondent shall submit to the Board or its designee for its prior approval the  
17 name and license number of the supervising physician and a practice plan detailing the nature and  
18 frequency of supervision to be provided. Respondent shall not practice until the supervising  
19 physician and practice plan are approved by the Board or its designee.

20 Respondent shall have the supervising physician submit quarterly reports to the Board or its  
21 designee.

22 If the supervising physician resigns or is no longer available, respondent shall, within 15  
23 days, submit the name and license number of a new supervising physician for approval.

24 Respondent shall not practice until a new supervising physician has been approved by the Board  
25 or its designee.

26 7. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN

27 Respondent shall notify his/her current and any subsequent employer and supervising  
28 physician(s) of the discipline and provide a copy of the Accusation, Decision, and Order to each

1 employer and supervising physician(s) during his/her period of probation, before accepting or  
2 continuing employment. Respondent shall ensure that each employer informs the Board or its  
3 designee, in writing within 30 days, verifying that the employer and supervising physician(s) have  
4 received a copy of the Accusation, Decision, and Order.

5 This condition shall apply to any change(s) in place of employment.

6 The respondent shall provide to the Board or its designee the names, physical addresses,  
7 mailing addresses, and telephone numbers of all employers, supervising physicians, and work site  
8 monitor, and shall inform the Board or its designee in writing of the facility or facilities at which  
9 the person practices as a physician assistant.

10 Respondent shall give specific, written consent to the Board or its designee to allow the  
11 Board or its designee to communicate with the employer, supervising physician, or work site  
12 monitor regarding the licensee's work status, performance, and monitoring.

13 8. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws, and all  
14 rules governing the practice of medicine as a physician assistant in California, and remain in full  
15 compliance with any court ordered criminal probation, payments, and other orders.

16 9. QUARTERLY REPORTS Respondent shall submit quarterly declarations under  
17 penalty of perjury on forms provided by the Board or its designee, stating whether there has been  
18 compliance with all the conditions of probation.

19 10. OTHER PROBATION REQUIREMENTS Respondent shall comply with the  
20 Board's probation unit. Respondent shall, at all times, keep the Board and probation unit  
21 informed of respondent's business and residence addresses. Changes of such addresses shall be  
22 immediately communicated in writing to the Board and probation unit. Under no circumstances  
23 shall a post office box serve as an address of record, except as allowed by California Code of  
24 Regulations 1399.523.

25 Respondent shall appear in person for an initial probation interview with Board or its  
26 designee within 90 days of the decision. Respondent shall attend the initial interview at a time  
27 and place determined by the Board or its designee.

28 Respondent shall, at all times, maintain a current and renewed physician assistant license.

1 Respondent shall also immediately inform the probation unit, in writing, of any travel to  
2 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than  
3 thirty (30) days.

4 11. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear in  
5 person for interviews with the Board's medical or expert physician assistant consultant upon  
6 request at various intervals and with reasonable notice.

7 12. NON-PRACTICE WHILE ON PROBATION Respondent shall notify the Board or  
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
9 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in  
10 which respondent is not practicing as a physician assistant. Respondent shall not return to  
11 practice until the supervising physician is approved by the Board or its designee.

12 If, during probation, respondent moves out of the jurisdiction of California to reside or  
13 practice elsewhere, including federal facilities, respondent is required to immediately notify the  
14 Board in writing of the date of departure and the date of return, if any.

15 Practicing as a physician assistant in another state of the United States or federal  
16 jurisdiction while on active probation with the physician assistant licensing authority of that state  
17 or jurisdiction shall not be considered non-practice.

18 All time spent in a clinical training program that has been approved by the Board or its  
19 designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension  
20 or in compliance with any other condition or probation, shall not be considered a period of non-  
21 practice.

22 Any period of non-practice, as defined in this condition, will not apply to the reduction of  
23 the probationary term.

24 Periods of non-practice do not relieve respondent of the responsibility to comply with the  
25 terms and conditions of probation.

26 It shall be considered a violation of probation if for a total of two years, respondent fails to  
27 practice as a physician assistant. Respondent shall not be considered in violation for non-practice  
28 as long as respondent is residing and practicing as a physician assistant in another state of the



1 United States and is on active probation with the physician assistant licensing authority of that  
2 state, in which case the two year period shall begin on the date probation is completed or  
3 terminated in that state.

4 13. UNANNOUNCED CLINICAL SITE VISIT The Board or its designee may make  
5 unannounced clinical site visits at any time to ensure that respondent is complying with all terms  
6 and conditions of probation.

7 14. CONDITION FULFILLMENT A course, evaluation, or treatment completed after  
8 the acts that gave rise to the charges in the accusation, but prior to the effective date of the  
9 Decision may, in the sole discretion of the Board or its designee, be accepted towards the  
10 fulfillment of the condition.

11 15. COMPLETION OF PROBATION Respondent shall comply with all financial  
12 obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the  
13 completion of probation. Upon successful completion of probation, respondent's license will be  
14 fully restored.

15 16. VIOLATION OF PROBATION If respondent violates probation in any respect, the  
16 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and  
17 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is  
18 filed against respondent during probation, the Board shall have continuing jurisdiction until the  
19 matter is final, and the period of probation shall be extended until the matter is final.

20 17. COST RECOVERY The respondent is hereby ordered to reimburse the Physician  
21 Assistant Board the amount of \$9,558.00 within 90 days from the effective date of this decision  
22 for its investigative costs. Failure to reimburse the Board's costs for its investigation shall  
23 constitute a violation of the probation order, unless the Board agrees in writing to payment by an  
24 installment plan because of financial hardship. The filing of bankruptcy by the respondent shall  
25 not relieve the respondent of his/her responsibility to reimburse the Board for its investigative  
26 costs.

27 18. PROBATION MONITORING COSTS Respondent shall pay the costs associated  
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant  
2 Board and delivered to the Board no later than January 31 of each calendar year.

3 19. VOLUNTARY LICENSE SURRENDER Following the effective date of this  
4 probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable  
5 to satisfy the terms and conditions of probation, respondent may request, in writing, the  
6 voluntarily surrender of respondent's license to the Board. Respondent's written request to  
7 surrender his or her license shall include the following: his or her name, license number, case  
8 number, address of record, and an explanation of the reason(s) why respondent seeks to surrender  
9 his or her license. The Board reserves the right to evaluate the respondent's request and to  
10 exercise its discretion whether to grant the request, or to take any other action deemed appropriate  
11 and reasonable under the circumstances. Respondent shall not be relieved of the requirements of  
12 his or her probation unless the Board or its designee notifies respondent in writing that  
13 respondent's request to surrender his or her license has been accepted. Upon formal acceptance  
14 of the surrender, respondent shall, within 15 days, deliver respondent's wallet and wall certificate  
15 to the Board or its designee and shall no longer practice as a physician assistant. Respondent will  
16 no longer be subject to the terms and conditions of probation and the surrender of respondent's  
17 license shall be deemed disciplinary action. If respondent re-applies for a physician assistant  
18 license, the application shall be treated as a petition for reinstatement of a revoked license.

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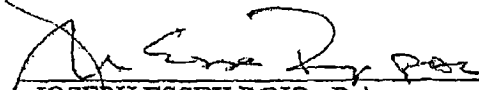
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeffrey Morris, Esq. I understand the stipulation and the effect it will have on my Physician Assistant License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physician Assistant Board.

DATED:

04/06/18

  
JOSEPH ESSEX ROJO, P.A.  
*Respondent*

I have read and fully discussed with Respondent JOSEPH ESSEX ROJO, P.A. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

04/06/18

  
JEFFREY MORRIS, ESQ.  
*Attorney for Respondent*

ENDORSEMENT

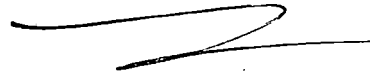
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physician Assistant Board.

Dated:

4/10/18

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General



TANN. TRAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 950-2016-001035**

XAVIER BECERRA  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
TAN N. TRAN  
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*Attorneys for Complainant*

BEFORE THE  
PHYSICIAN ASSISTANT BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 950-2016-001035

**Joseph Essex Rojo, P.A.**  
**1054 Camino Del Cerritos**  
**San Dimas, California 91773**

**ACCUSATION**

**Physician Assistant License No. PA 15905,**

Respondent.

Complainant alleges:

**PARTIES**

1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

2. On or about July 10, 2001, the Physician Assistant Board issued Physician Assistant License Number PA 15905 to Joseph Essex Rojo, P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code (Code) unless otherwise indicated.

4. Section 3527 of the Code states:

"(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

"...

"(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

"(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

5. California Code of Regulations, title 16, section 1399.521 states:

"In addition to the grounds set forth in section 3527; subdivision (a), of the Code, the board may deny, issue subject to terms and conditions, suspend, revoke or place on probation a physician assistant for the following causes: (a) Any violation of the State Medical Practice Act which would constitute unprofessional conduct for a physician and surgeon..."

6. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default

1 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
2 action with the board, may, in accordance with the provisions of this chapter:

3 "(1) Have his or her license revoked upon order of the board.

4 "(2) Have his or her right to practice suspended for a period not to exceed one year upon  
5 order of the board.

6 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
7 order of the board.

8 "(4) Be publicly reprimanded by the board. The public reprimand may include a  
9 requirement that the licensee complete relevant educational courses approved by the board.

10 "(5) Have any other action taken in relation to discipline as part of an order of probation, as  
11 the board or an administrative law judge may deem proper.

12 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
13 review or advisory conferences, professional competency examinations, continuing education  
14 activities, and cost reimbursement associated therewith that are agreed to with the board and  
15 successfully completed by the licensee, or other matters made confidential or privileged by  
16 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
17 Section 803.1."

18 7. Section 2234 of the Code, states:

19 "The board shall take action against any licensee who is charged with unprofessional  
20 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
21 limited to, the following:

22 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
23 violation of, or conspiring to violate any provision of this chapter.

24 "(b) Gross negligence.

25 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
26 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
27 the applicable standard of care shall constitute repeated negligent acts.



1           "(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
2 for that negligent diagnosis of the patient shall constitute a single negligent act.

3           "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
4 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
5 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
6 applicable standard of care, each departure constitutes a separate and distinct breach of the  
7 standard of care.

8           "(d) Incompetence.

9           "(e) The commission of any act involving dishonesty or corruption which is substantially  
10 related to the qualifications, functions, or duties of a physician and surgeon.

11           "(f) Any action or conduct which would have warranted the denial of a certificate.

12           "(g) The practice of medicine from this state into another state or country without meeting  
13 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
14 apply to this subdivision. This subdivision shall become operative upon the implementation of  
15 the proposed registration program described in Section 2052.5.

16           "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
17 participate in an interview by the board of the certificate holder and the board. This subdivision  
18 shall only apply to a certificate holder who is the subject of an investigation by the board."

19           8.     Section 2241 of the Code states:

20           "(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs,  
21 including prescription controlled substances, to an addict under his or her treatment for a purpose  
22 other than maintenance on, or detoxification from, prescription drugs or controlled substances.

23           "(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or  
24 prescription controlled substances to an addict for purposes of maintenance on, or detoxification  
25 from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections  
26 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this  
27 subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer  
28

1 dangerous drugs or controlled substances to a person he or she knows or reasonably believes is  
2 using or will use the drugs or substances for a nonmedical purpose.

3 "(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also  
4 be administered or applied by a physician and surgeon, or by a registered nurse acting under his  
5 or her instruction and supervision, under the following circumstances:

6 "(1) Emergency treatment of a patient whose addiction is complicated by the presence of  
7 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

8 "(2) Treatment of addicts in state-licensed institutions where the patient is kept under  
9 restraint and control, or in city or county jails or state prisons.

10 "(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety  
11 Code.

12 "(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose  
13 actions are characterized by craving in combination with one or more of the following:

14 "(A) Impaired control over drug use.

15 "(B) Compulsive use.

16 "(C) Continued use despite harm.

17 "(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due  
18 to the inadequate control of pain is not an addict within the meaning of this section or Section  
19 2241.5."

20 9. Section 2242 of the Code states:

21 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
22 without an appropriate prior examination and a medical indication, constitutes unprofessional  
23 conduct.

24 "(b) No licensee shall be found to have committed unprofessional conduct within the  
25 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
26 the following applies:

27 "(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
28 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs

1 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
2 of his or her practitioner, but in any case no longer than 72 hours.

3 "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
4 vocational nurse in an inpatient facility, and if both of the following conditions exist:

5 "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
6 who had reviewed the patient's records.

7 "(B) The practitioner was designated as the practitioner to serve in the absence of the  
8 patient's physician and surgeon or podiatrist, as the case may be.

9 "(3) The licensee was a designated practitioner serving in the absence of the patient's  
10 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized  
11 the patient's records and ordered the renewal of a medically indicated prescription for an amount  
12 not exceeding the original prescription in strength or amount or for more than one refill.

13 "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
14 Code."

15 10. Section 2266 of the Code states: The failure of a physician and surgeon to maintain  
16 adequate and accurate records relating to the provision of services to their patients constitutes  
17 unprofessional conduct.

18 11. Section 725 of the Code states:

19 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering  
20 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated  
21 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of  
22 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,  
23 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language  
24 pathologist, or audiologist.

25 "(b) Any person who engages in repeated acts of clearly excessive prescribing or  
26 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of  
27 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by  
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1 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and  
2 imprisonment.

3 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or  
4 administering dangerous drugs or prescription controlled substances shall not be subject to  
5 disciplinary action or prosecution under this section.

6 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section  
7 for treating intractable pain in compliance with Section 2241.5."

8 12. Section 3502 of the Code states in pertinent part:

9 "(a) Notwithstanding any other provision of law, a physician assistant may perform those  
10 medical services as set forth by the regulations of the board when the services are rendered under  
11 the supervision of a licensed physician and surgeon or of physicians and surgeons approved by  
12 the board, except as provided in Section 3502.5.

13 "..."

14 13. Section 3502.1, subdivision (c)(2) of the Code states:

15 "A physician assistant shall not administer, provide or issue a drug order for Schedule II  
16 through Schedule V controlled substances without advance approval by a supervising physician  
17 and surgeon for that particular patient . . ."

18 14. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licentiate found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts- 3 Patients)**

3 15. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
4 the Code in that he committed repeated negligent acts in his care of Patients 1 through 3.<sup>1</sup> The  
5 circumstances are as follows:

6 Patient 1

7 16. Patient 1 (or "patient") is a forty-eight- year-old female who treated with  
8 Respondent from about 2013 through 2017.<sup>2</sup> Patient 1 had been treating with Respondent for  
9 various conditions, but primarily for chronic pain. Respondent prescribed oral narcotics (such as  
10 Promethazine with Codeine and Alprazolam) and muscle relaxants to Patient 1.<sup>3</sup>

11 17. Respondent had been prescribing controlled substances to Patient 1 (presumably  
12 for chronic pain) for a protracted period of time. Prior examination and indication for  
13 Promethazine with Codeine and Alprazolam were poorly documented. The medical record  
14 demonstrated limited examination, laboratory testing, and imaging studies.

15 18. Respondent failed to include a complete pain assessment. Functional status,  
16 detailed exam findings in the areas of reported pain, previous diagnostic evaluation and prior  
17 treatment were poorly documented. Respondent also failed to develop a comprehensive treatment  
18 plan. Pain and functional goals, maximization of non-narcotic therapy and nonpharmacologic  
19 management were not evident.

20 19. There was no documentation that Respondent utilized rehabilitation programs,  
21 obesity management, physical therapy or specialty referrals. Although laboratory and imaging  
22 studies were performed, Respondent did not address the patient's abnormal liver function tests or  
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24  
25  
26 <sup>1</sup> The patients are identified numerically to protect their privacy.

27 <sup>2</sup> These are approximate dates, based on the records available. The patient may have also  
treated with Respondent before and after these dates.

28 <sup>3</sup> A number of other clinicians had also been prescribing controlled substances to Patient 1  
during the time she was treating with Respondent.

1 abnormal MRI results. Controlled substances were refilled on a regular basis without evidence of  
2 complete periodic review, attempts to taper narcotics or assess the appropriateness for continued  
3 use of the narcotics. CURES review, informed consent, narcotic contract, and urine drug testing  
4 were not evident in the medical record.

5 20. Respondent's medical record-keeping was illegible and incomplete. Missing items  
6 included details of past history, prior work-up, consultations, interval medication reconciliation,  
7 patient compliance with treatment plan and health care maintenance. There was also poor  
8 medical record documentation regarding physician supervision. These acts and omissions in the  
9 treatment of Patient 1 constituted simple departures from the standard of care.  
10

11 Patient 2

12 21. Patient 2 (or "patient") is a fifty-three-year-old male who treated with Respondent  
13 from about 2013 through 2017.<sup>4</sup> Patient 2 had been treating with Respondent for primary care,  
14 management of chronic medical conditions, management of chronic pain syndrome, and  
15 medication refills. Respondent prescribed high doses of oral narcotics such as Phenobarbital,  
16 NSAIDS, and Oxycontin to Patient 2 during this time period.  
17

18 22. Respondent prescribed controlled substances to Patient 2 for chronic pain and  
19 seizure disorder for a protracted period of time. As with Patient 1, above, the medical record for  
20 Patient 2 demonstrated limited examination, laboratory testing, and imaging studies. Respondent  
21 failed to include a complete pain assessment. Functional status, detailed exam findings in the  
22 areas of reported pain, previous diagnostic evaluation and prior treatment were poorly  
23 documented. Respondent also failed to develop a comprehensive treatment plan. Pain and  
24 functional goals, maximization of non-narcotic therapy and nonpharmacologic management were  
25 not included.  
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27  
28 <sup>4</sup> Again, these are approximate dates, based on the records available. The patient may  
have also treated with Respondent before and after these dates.

1           23.     There was no documentation that Respondent utilized rehabilitation programs,  
2 physical therapy or specialty referrals. Although laboratory and imaging studies were performed,  
3 there was no documentation that Respondent addressed Patient 2's abnormal MRI results.  
4 Controlled substances were refilled on a regular basis without evidence of complete periodic  
5 review, attempts to taper high dose narcotics or assess the appropriateness for continued use of  
6 the narcotics. CURES review, informed consent, narcotic contract, and urine drug testing were  
7 not evident in the medical record.

8  
9           24.     Again, Respondent's medical record-keeping for Patient 2 was illegible and  
10 incomplete. Missing items included details of past history, prior work-up, consultations, interval  
11 medication reconciliation, patient compliance with treatment plan and health care maintenance.  
12 There was also poor medical record documentation regarding physician supervision. These acts  
13 and omissions in the treatment of Patient 2 constituted simple departures from the standard of  
14 care.

15           Patient 3

16  
17           25.     Patient 3 (or "patient") is a seventy-three year-old male who treated with  
18 Respondent from about 2013 through 2017.<sup>5</sup> Patient 3 had various chronic medical conditions  
19 and had been treating with Respondent for primary care, management of chronic medical  
20 conditions, management of chronic pain syndrome, and medication refills. Respondent  
21 prescribed NSAIDS, and other controlled substances to Patient 3 such as Neurontin and  
22 antidepressants, Oxycodone, and Fentanyl.<sup>6</sup>

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24           26.     As with the other patients mentioned above, Respondent had been prescribing  
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26           <sup>5</sup> As with the other patients mentioned herein, these are approximate dates, based on the  
27 records available. The patient may have also treated with Respondent before and after these  
28 dates.

<sup>6</sup> As with Patient 1, a number of other clinicians had also been prescribing controlled  
substances to Patient 3 during the time he was treating with Respondent.

1 controlled substances to Patient 3 for a protracted period of time (presumably for chronic pain  
2 disorder). The medical record demonstrated limited examination, laboratory testing, imaging  
3 studies, and orthopedic surgery consultation.

4 27. Again, Respondent failed to include a complete pain assessment for Patient 3.  
5 Functional status, detailed exam findings in the areas of reported pain, previous diagnostic  
6 evaluation and prior treatment were poorly documented. Respondent also failed to develop a  
7 comprehensive treatment plan. Pain and functional goals, maximization of non-narcotic therapy  
8 and nonpharmacologic management were not evident.  
9

10 28. There was no documentation that Respondent utilized rehabilitation programs,  
11 obesity management, physical therapy or pain management referral. Although laboratory and  
12 imaging studies were performed, Respondent did not address the patient's abnormal renal  
13 function and carotid stenosis. Controlled substances were refilled on a regular basis without  
14 evidence of complete periodic review, attempts to taper opiates or assess the appropriateness for  
15 continued use of the opiates. Indication for narcotic dose escalation, transdermal Fentanyl use  
16 was poorly documented. CURES review, informed consent, and urine drug testing were not  
17 evident in the medical record. Risks of chronic NSAID use in the setting of chronic kidney  
18 disease was not addressed.  
19

20 29. Respondent's medical record-keeping for Patient 3 was also illegible and  
21 incomplete. Missing items included details of past history, prior work-up, consultations, interval  
22 medication reconciliation, patient compliance with treatment plan and health care maintenance.  
23 There was also poor medical record documentation regarding physician supervision and care  
24 coordination with other providers. These acts and omissions in the treatment of Patient 3  
25 constituted simple departures from the standard of care.  
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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Administration of Controlled Substances Without Advance Approval By a**  
3 **Supervising Physician- 3 Patients )**

4 34. By reason of the facts set forth in the First Cause for Discipline, Respondent is  
5 subject to disciplinary action under section 3502.1, subdivision (c)(2) of the Code for  
6 prescribing/administering controlled substances to Patients 1 through 3 without advance approval  
7 of a supervising physician.

8 **PRAYER**

9 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Physician Assistant Board issue a decision:

- 11 1. Revoking or suspending Physician Assistant License Number 15905, issued to Joseph  
12 Essex Rojo, PA;  
13 2. Ordering Joseph Essex Rojo, P.A. to pay the Physician Assistant Board the costs of  
14 probation (if placed on probation), and the costs of investigation and enforcement, pursuant to  
15 Business and Professions Code section 125.3;  
16 3. Ordering Joseph Essex Rojo, P.A. to pay fines and other penalties, pursuant to  
17 Business and Professions Code section 725; and  
18 4. Taking such other and further action as deemed necessary and proper.  
19  
20

21 DATED: March 16, 2018

22   
23 MAUREEN L. FORSYTH  
24 Executive Officer  
25 Physician Assistant Board  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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